



Commonwealth  
of Massachusetts

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*Office of Campaign and Political Finance*  
*One Ashburton Place, Room 411*  
*Boston, MA 02108*

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### Advisory Opinion

October 6, 1998  
AO-98-22

Gloria Craven, Director  
Department of Legislation and Government Affairs  
Massachusetts Nurses Association  
340 Turnpike Street  
Canton, MA 02021-2711

Re: In-kind contributions to Association's PAC

Dear Ms. Craven:

This letter is in response to your August 19, 1998 request for an advisory opinion.

The Massachusetts Nurses Association (the Association) is a professional association and union for registered nurses (RNs). The Association has 20,000 members. RNs may become members of the Association upon the payment of dues.

The Association's political action committee, NursePLAN, has developed a contribution envelope to be used to solicit Association **members** for contributions. The Association is considering including the envelope in the packets that the Association mails annually to members who renew their membership, and to new members. The packets would not be mailed to prospective members, but only to persons who have already paid dues to become members. The Association would pay for the mailings.

You have stated that including the envelope "is incidental" to the Association's mailing.

### Questions

- (1) If the Association includes the envelope in its mailing does this constitute an 'in kind' contribution by the Association to NursePLAN?
- (2) If so, how would the Association and NursePLAN ever pro-rate and document the contribution?"

### Answers

- (1) No.
- (2) Not applicable.

### Discussion

In 1994 the campaign finance law was amended to state that "**communications** from a **membership organization**, not including a corporation subject to section eight, **to its members and their**

**families on any subject** shall not be deemed to be a contribution or expenditure." See M.G.L. c. 55, s. 1. Political committees may not be "membership organizations." See 970 CMR 2.02, which defines the term "membership organization." If an association is a "membership organization," payments to distribute information **to members** (regardless of content) are not "contributions" or "expenditures" subject to the reporting provisions and limitations of the campaign finance law.

An association is a "membership organization" if it identifies individuals within the organization as members. See 970 CMR 2.02. In addition to identifying individuals as members, however, persons are "members" of an organization only if the organization requires some affirmative action to be taken by the person in order to become a member, e.g., payment of dues or the person's making a request to be included on the membership list. See AO-97-09. Because RNs become "members" of the Association upon the payment of dues, the Association is a membership organization.

A "communication" may be broadly defined as the transmission of information. See Webster's New World Dictionary (1989). By sending a NursePLAN contribution envelope to members, the Association is providing information to members, i.e., the Association is conveying its support of NursePLAN and encouraging Association members to make a contribution. The subject of the communication is the making of contributions to NursePLAN. Therefore, costs incurred to produce and distribute the envelope would not be considered "contributions" or "expenditures" subject to the reporting provisions and limitations of the campaign finance law.<sup>1</sup>

Costs associated with communicating with **prospective** members to solicit contributions for the organization's PAC would, however, be considered an in-kind contribution from the organization. In-kind contributions to the PAC must be disclosed on the PAC's campaign finance reports. The amount of the contribution would include the cost to produce and copy the envelopes and the value of staff time used to prepare that portion of the mailing which relates to the solicitation. In addition, the value of the contribution would include either the percentage of the total postage cost of the mailing which relates to the PAC, see AO-89-14 and AO-90-30, or the postage cost if the PAC were to distribute the information independently.

This opinion is issued solely within the context of the campaign finance law and is provided on the basis of representations in your letter and conversations with OCPF staff. Please contact us if you have further questions regarding the campaign finance law.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan". The signature is fluid and cursive, with a horizontal line extending to the right.

Michael J. Sullivan  
Director

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<sup>1</sup> If a membership organization distributes information for a PAC to persons who are not members of the organization, the organization has made an in-kind contribution to the PAC.